

Executive Summary – Enforcement Matter – Case No. 45944

City of Houston

RN101608685

Docket No. 2013-0056-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Northgate WWTP, located at 303 Benmar Street on the south bank of Greens Bayou approximately 3,000 feet northeast of the intersection of Interstate Highway 45 and North Belt Freeway, Harris County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 17, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,189

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$27,189

Name of SEP: Bayou Land Conservancy fka Legacy Land Trust

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 45944
City of Houston
RN101608685
Docket No. 2013-0056-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 30, 2012

Date(s) of NOE(s): December 20, 2012

Violation Information

1. Failed to collect effluent samples at the required location [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010495100, Effluent Limitations and Monitoring Requirements No. 5, and 30 TEX. ADMIN. CODE § 319.5(a)].
2. Failed to prevent the discharge of a hazardous substance from the Facility into or adjacent to water in the state [TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0010495100, Permit Conditions No. 2.d.].
3. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [TPDES Permit No. WQ0010495100, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].
4. Failed to notify the TCEQ within 24 hours of becoming aware of a reportable discharge or spill of a hazardous substance into the environment in a quantity equal to or greater than the reportable quantity in any 24-hour period [30 TEX. ADMIN. CODE § 327.3(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By September 27, 2012, stopped the unauthorized discharge, disposed of the dead fish after the bleach dissipated, and counseled the employees on the proper procedure for chemical handling and chemical delivery process;
- b. By September 28, 2012, updated the Facility's standard operating procedures to ensure that all reportable discharges or spills are timely reported;
- c. By November 9, 2012, repaired the out of service blower and began maintaining the required number of blowers in the aeration basin; and
- d. By December 6, 2012, began collecting effluent samples at the required location.

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Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Daniel W. Krueger, Public Works Director, City of Houston, P.O. Box 1562, Houston, Texas 77251
The Honorable Annise Parker, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0056-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Houston
Penalty Amount:	Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189)
SEP Offset Amount:	Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Bayou Land Conservancy <i>fka Legacy Land Trust</i>
Project Name:	Spring Creek Greenway Project
Location of SEP:	Harris or Montgomery Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Bayou Land Conservancy** for the *Spring Creek Greenway Project*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, this SEP will focus on preserving multiple tracts of land comprising approximately 1,000 acres in the riparian corridor east of FM 2978 and west of U.S. 59. The Third-Party Recipient shall use SEP Funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. The Third-Party Recipient shall also use SEP Funds to conduct restoration work, including tree plantings, on these tracts, as needed. All property acquired in whole or in part with SEP Funds must be preserved in perpetuity through a conservation easement that complies with Subchapter A, Chapter 183, Texas Natural Resources Code. The holder of the conservation easement must be an entity that meets the definition of “holder” under section 183.001(2), Texas Natural Resources Code. Additionally, the holder of the conservation easement may not also be the owner of the property. The Third-Party Recipient shall use only conservation easements that are substantially similar to the conservation easement described in the SEP Agreement between Third-

City of Houston
Agreed Order - Attachment A

Party Recipient and TCEQ. The Third-Party Recipient shall not use or set aside SEP Funds for legal defense of these properties without prior written approval of the TCEQ.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

The preservation of open space in the Spring Creek Greenway Project area provides substantial environmental, economic, and community benefits for the region. Spring Creek is on the State's 303(d) list for water quality impairment due to bacteria. The sandy banks of Spring Creek have frequently been stripped of their native vegetation, increasing erosion potential and reducing wildlife habitat. However, for such a highly populated area, northern Harris and southern Montgomery Counties are still heavily forested. Protecting this forested area's trees, understory and wetlands helps absorb fertilizer, roadway runoff, and animal fecal matter from the nearby highly populated areas. Biofiltration through these vegetated areas protects Spring Creek from non-point source water pollution by slowing the flow of run-off and assisting particulates and their associated pollutants to settle. As pollutants settle out via washover through these forests, they are immobilized, decomposed and absorbed back into the soil, instead of running off into the waterway. By preserving the natural vegetated banks, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation before reaching the San Jacinto River, which feeds Lake Houston, a primary water source for Houston. Having vegetated areas remain protected along this area, while also increasing tree plantings through this project, will help protect this waterway from contaminants. Finally, the linking of open space enhances the conservation value of this greenway project by reversing land fragmentation.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Bayou Land Conservancy
Jennifer Lorenz, Executive Director
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an

enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Jan-2013	Screening	8-Jan-2013	EPA Due	
	PCW	10-Jan-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Houston		
Reg. Ent. Ref. No.	RN101608685		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	45944	No. of Violations	4
Docket No.	2013-0056-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$36,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$9,061**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$3
Approx. Cost of Compliance \$2,100
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$27,189**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$27,189**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$27,189**

DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$27,189

Screening Date 8-Jan-2013

Docket No. 2013-0056-MWD-E

PCW

Respondent City of Houston

Policy Revision 3 (September 2011)

Case ID No. 45944

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608685

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 8-Jan-2013

Docket No. 2013-0056-MWD-E

PCW

Respondent City of Houston

Policy Revision 3 (September 2011)

Case ID No. 45944

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608685

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010495100, Effluent Limitations and Monitoring Requirements No. 5, and 30 Tex. Admin. Code § 319.5(a)

Violation Description

Failed to collect effluent samples at the required location. Specifically, dissolved oxygen and pH samples were being collected in the chlorine contact basin just before the weir and not after the final treatment unit as specified in the permit.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect effluent samples at the required location will or could result in the release of significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

37 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the investigation date of October 30, 2012 to the compliance date of December 6, 2012.

Good Faith Efforts to Comply

25.0%

Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 6, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent City of Houston
 Case ID No. 45944
 Reg. Ent. Reference No. RN101608685
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	30-Oct-2012	6-Dec-2012	0.10	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to ensure effluent samples are collected at the required location. Date Required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$3

Screening Date 8-Jan-2013

Docket No. 2013-0056-MWD-E

PCW

Respondent City of Houston

Policy Revision 3 (September 2011)

Case ID No. 45944

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608685

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a) and TPDES Permit No. WQ0010495100, Permit Conditions No. 2.d.

Violation Description

Failed to prevent the discharge of a hazardous substance from the Facility into or adjacent to water in the state. Specifically, on September 26, 2012, approximately 1,242 gallons of sodium hypochlorite (bleach) was discharged during the bleach tank repair, to the clarifier trough and finally through Outfall 001 into Greens Bayou, resulting in approximately 200 dead fish of mixed species.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm	Minor
Actual	x		
Potential			

Percent 100.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceeded levels that are protective of human health or environmental receptors.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$25,000

One daily event is recommended, from the date of the discharge (September 26, 2012) to the date the discharge was stopped and the bleach dissipated and cleanup completed (September 27, 2012).

Good Faith Efforts to Comply

25.0% Reduction

\$6,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by September 27, 2012 for this violation.

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

Economic Benefit Worksheet

Respondent City of Houston
Case ID No. 45944
Reg. Ent. Reference No. RN101608685
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	26-Sep-2012	27-Sep-2012	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to stop the unauthorized discharge, dispose of the dead fish, and counsel the employees on the proper procedure for chemical handling and chemical delivery process. Date required is the date of the discharge, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$0

Screening Date 8-Jan-2013

Docket No. 2013-0056-MWD-E

PCW

Respondent City of Houston

Policy Revision 3 (September 2011)

Case ID No. 45944

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608685

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0010495100, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Respondent failed to maintain the required number of blowers in the aeration basin; four blowers are required, however, only three were operational at the time of the October 30, 2012 investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 10 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the investigation date of October 30, 2012 to the compliance date of November 9, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by November 9, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent City of Houston
Case ID No. 45944
Reg. Ent. Reference No. RN101608685
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	30-Oct-2012	9-Nov-2012	0.03	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to repair the out of service blower and begin maintaining the required number of blowers in the aeration basin. Date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 8-Jan-2013

Docket No. 2013-0056-MWD-E

PCW

Respondent City of Houston

Policy Revision 3 (September 2011)

Case ID No. 45944

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608685

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 327.3(a) and (b)

Violation Description

Failed to notify the TCEQ within 24 hours of becoming aware of a reportable discharge or spill of a hazardous substance into the environment in a quantity equal to or greater than the reportable quantity in any 24-hour period. Specifically, the discharge of bleach was discovered on September 26, 2012, but not reported until September 28, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by September 28, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent City of Houston
Case ID No. 45944
Reg. Ent. Reference No. RN101608685
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	27-Sep-2012	28-Sep-2012	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly notify the TCEQ within 24 hours of becoming aware of reportable discharge or spill and to update its standard operating procedures to ensure that all reportable discharges or spills are timely reported. Date required is the date the notification was due, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN600128995, RN101608685, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600128995, City of Houston	Classification: SATISFACTORY	Rating: 2.20
Regulated Entity:	RN101608685, NORTHGATE WWTP	Classification: HIGH	Rating: 0.00
Complexity Points:	6	Repeat Violator:	NO
CH Group:	08 - Sewage Treatment Facilities		
Location:	Located at 303 Benmar Street on the south bank of Greens Bayou approximately 3,000 feet northeast of the intersection of Interstate Highway 45 and North Belt Freeway in Harris County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):			
WASTEWATER PERMIT WQ0010495100	WASTEWATER EPA ID TX0055310		
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG3798J	STORMWATER PERMIT TXR05K246		
WASTEWATER LICENSING LICENSE WQ0010495100			
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012
		Rating Date:	09/01/2012
Date Compliance History Report Prepared:	January 16, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	January 08, 2008 to January 08, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Jorge Ibarra, P.E.	Phone	(817) 588-5890

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 17, 2008	(621979)
Item 2	February 18, 2008	(673868)
Item 3	March 17, 2008	(673869)
Item 4	April 17, 2008	(673870)
Item 5	June 18, 2008	(692123)
Item 6	July 18, 2008	(692124)
Item 7	August 29, 2008	(713200)
Item 8	September 17, 2008	(713201)
Item 9	October 20, 2008	(713202)
Item 10	November 14, 2008	(729332)
Item 11	December 18, 2008	(729333)
Item 12	January 15, 2009	(729334)
Item 13	February 16, 2009	(752522)

Item 14	March 19, 2009	(752523)
Item 15	April 16, 2009	(752524)
Item 16	May 19, 2009	(770167)
Item 17	June 10, 2009	(770168)
Item 18	July 20, 2009	(810068)
Item 19	August 31, 2009	(810069)
Item 20	September 21, 2009	(810070)
Item 21	October 19, 2009	(810071)
Item 22	November 17, 2009	(810072)
Item 23	December 15, 2009	(810073)
Item 24	January 13, 2010	(810074)
Item 25	February 12, 2010	(810067)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HOUSTON
RN101608685**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0056-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Houston ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 303 Benmar Street on the south bank of Greens Bayou approximately 3,000 feet northeast of the intersection of Interstate Highway 45 and North Belt Freeway in Harris County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on October 30, 2012, TCEQ staff documented that the Respondent did not collect effluent samples at the required location. Specifically, dissolved oxygen and pH samples were being collected in the chlorine contact basin just before the weir and not after the final treatment unit as specified in the permit.
4. During an investigation conducted on October 30, 2012, TCEQ staff documented that the Respondent did not prevent the discharge of a hazardous substance from the Facility into or adjacent to water in the state. Specifically, on September 26, 2012 approximately 1,242 gallons of sodium hypochlorite (bleach) was discharged during the bleach tank repair, to the clarifier trough and finally through Outfall 001 into Greens Bayou, resulting in approximately 200 dead fish of mixed species.
5. During an investigation conducted on October 30, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Respondent failed to maintain the required number of blowers in the aeration basin; four blowers are required, however, only three were operational at the time of the investigation.
6. During an investigation conducted on October 30, 2012, TCEQ staff documented that the Respondent did not notify the TCEQ within 24 hours of becoming aware of a reportable discharge or spill of a hazardous substance into the environment in a quantity equal to or greater than the reportable quantity ("RQ") in any 24-hour period. Specifically, the discharge of bleach was discovered on September 26, 2012, but not reported until September 28, 2012.
7. The Respondent received notice of the violations on December 26, 2012.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By September 27, 2012, stopped the unauthorized discharge, disposed of the dead fish after the bleach dissipated, and counseled the employees on the proper procedure for chemical handling and chemical delivery process;
 - b. By September 28, 2012, updated the Facility's standard operating procedures to ensure that all reportable discharges or spills are timely reported;
 - c. By November 9, 2012, repaired the out of service blower and began maintaining the required number of blowers in the aeration basin; and
 - d. By December 6, 2012, began collecting effluent samples at the required location.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to collect effluent samples at the required location, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010495100, Effluent Limitations and Monitoring Requirements No. 5, and 30 TEX. ADMIN. CODE § 319.5(a).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the discharge of a hazardous substance from the Facility into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0010495100, Permit Conditions No. 2.d.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0010495100, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to notify the TCEQ within 24 hours of becoming aware of a reportable discharge or spill of a hazardous substance into the environment in a quantity equal to or greater than the RQ in any 24-hour period, in violation of 30 TEX. ADMIN. CODE § 327.3(a) and (b).
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and

conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Houston, Docket No. 2013-0056-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 7 above, Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

5/25/13
Date

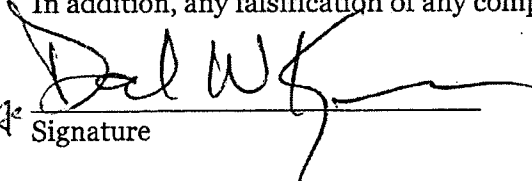
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Houston. I am authorized to agree to the attached Agreed Order on behalf of City of Houston, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Houston waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

March 25, 2013
Date

Daniel W. Krueger
Name (Printed or typed)
Authorized Representative of
City of Houston

Director - Public Works
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-0056-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Houston
Penalty Amount:	Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189)
SEP Offset Amount:	Twenty-Seven Thousand One Hundred Eighty-Nine Dollars (\$27,189)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Bayou Land Conservancy <i>fka Legacy Land Trust</i>
Project Name:	Spring Creek Greenway Project
Location of SEP:	Harris or Montgomery Counties

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Bayou Land Conservancy** for the *Spring Creek Greenway Project*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, this SEP will focus on preserving multiple tracts of land comprising approximately 1,000 acres in the riparian corridor east of FM 2978 and west of U.S. 59. The Third-Party Recipient shall use SEP Funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. The Third-Party Recipient shall also use SEP Funds to conduct restoration work, including tree plantings, on these tracts, as needed. All property acquired in whole or in part with SEP Funds must be preserved in perpetuity through a conservation easement that complies with Subchapter A, Chapter 183, Texas Natural Resources Code. The holder of the conservation easement must be an entity that meets the definition of "holder" under section 183.001(2), Texas Natural Resources Code. Additionally, the holder of the conservation easement may not also be the owner of the property. The Third-Party Recipient shall use only conservation easements that are substantially similar to the conservation easement described in the SEP Agreement between Third-

City of Houston
Agreed Order - Attachment A

Party Recipient and TCEQ. The Third-Party Recipient shall not use or set aside SEP Funds for legal defense of these properties without prior written approval of the TCEQ.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

The preservation of open space in the Spring Creek Greenway Project area provides substantial environmental, economic, and community benefits for the region. Spring Creek is on the State's 303(d) list for water quality impairment due to bacteria. The sandy banks of Spring Creek have frequently been stripped of their native vegetation, increasing erosion potential and reducing wildlife habitat. However, for such a highly populated area, northern Harris and southern Montgomery Counties are still heavily forested. Protecting this forested area's trees, understory and wetlands helps absorb fertilizer, roadway runoff, and animal fecal matter from the nearby highly populated areas. Biofiltration through these vegetated areas protects Spring Creek from non-point source water pollution by slowing the flow of run-off and assisting particulates and their associated pollutants to settle. As pollutants settle out via washover through these forests, they are immobilized, decomposed and absorbed back into the soil, instead of running off into the waterway. By preserving the natural vegetated banks, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation before reaching the San Jacinto River, which feeds Lake Houston, a primary water source for Houston. Having vegetated areas remain protected along this area, while also increasing tree plantings through this project, will help protect this waterway from contaminants. Finally, the linking of open space enhances the conservation value of this greenway project by reversing land fragmentation.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

City of Houston
Agreed Order - Attachment A

Bayou Land Conservancy
Jennifer Lorenz, Executive Director
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an

City of Houston
Agreed Order - Attachment A

enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.